Canadian Human Rights Tribunal

2013-14

Report on Plans and Priorities

The original version was signed by
The Honourable Robert Douglas Nicholson
Minister of Justice and Attorney General of Canada

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Chairperson's Message

Canadians are proud of their efforts to create a diverse society that promotes equality and social inclusion. Yet true equality remains a challenging goal. The Canadian Human Rights Tribunal is the administrative body that hears complaints of discrimination in the federally regulated sphere that have been referred to it by the Canadian Human Rights Commission.

Annually, the Tribunal receives an average of 100 cases. The Tribunal has accumulated a backlog of cases in the last couple of years and significant efforts will be made to reduce this backlog in 2013-2014. The appointment of additional part-time members in 2012 and our commitment to continue to improve our mediation process to resolve more cases through this process will greatly contribute to this effort.

The Tribunal's task is complicated by the constantly evolving nature of rights, laws, and jurisdictions. In June 2011, the repeal of Section 67 of the *Canadian Human Rights Act* took effect. Repealing Section 67 now allows anyone to file a complaint about decisions rendered under or pursuant to the *Indian Act*. As a result, the Tribunal anticipates an increase in such cases. After consulting with First Nations, the Tribunal is planning to amend our procedures to make them more accessible and expeditious as possible for the benefit of all Canadians.

The Tribunal continues to deal with the impact of the *Mowat* case wherein the Courts have stipulated that the Tribunal cannot award legal costs to successful complainants. This has resulted in an increase in the number of complaints made without the benefit of legal representation. In response, the Tribunal is already implementing new dispute resolution models, creating simplified procedures, and making its processes more accessible.

In 2013-2014, the Tribunal will work closely with all stakeholders to improve our practices and efficiency. Thanks to the dedication of our members and staff, I have every confidence in the Tribunal's ability to continue fulfilling our mandate to supply timely, fair and meaningful resolution of matters before the Canadian Human Rights Tribunal.

The original version was signed by
Susheel Gupta
Acting Chairperson

Section I: Organizational Overview

Raison d'être

The Canadian Human Rights Tribunal is a quasi-judicial body that hears complaints of discrimination referred by the Canadian Human Rights Commission, and determines whether the activities complained of violate the *Canadian Human Rights Act* (CHRA). The purpose of the CHRA is to protect individuals from discrimination and to promote equal opportunity. The Tribunal also decides cases brought under the *Employment Equity Act* (EEA) and, pursuant to Section 11 of the CHRA, determines allegations of wage disparity between men and women doing work of equal value in the same establishment.

Responsibilities

In hearing complaints under the CHRA and the EEA, the Canadian Human Rights Tribunal considers matters concerning employment or the provision of goods, services, facilities or accommodation. The CHRA makes it an offence for a federally regulated employer or service provider to discriminate against an individual or group on any of the following grounds:

- race;
- national or ethnic origin;
- colour;
- religion;
- age;
- sex (includes pay equity, pregnancy, childbirth and harassment, although harassment can apply to all grounds);
- marital status;
- family status;
- sexual orientation;
- disability (can be mental or physical, and includes disfigurement and past, existing or perceived alcohol or drug dependence);
- conviction for which a pardon has been granted or in respect of which a record suspension has been ordered.

The Tribunal's jurisdiction covers matters that come within the legislative authority of the Parliament of Canada, including those concerning federal government departments and agencies, as well as banks, airlines and other federally regulated employers, and providers of goods, services, facilities and accommodation. The Tribunal holds public hearings to inquire into complaints of discrimination. Based on evidence and the law (often conflicting and complex), it determines whether discrimination has occurred. If it makes a finding of discrimination, the Tribunal determines the appropriate remedy to compensate the victim of the discriminatory practice, as well as policy adjustments necessary to prevent future discrimination.

The majority of discriminatory acts that the Tribunal adjudicates are not malicious. Many conflicts arise from long-standing practices, legitimate concerns of employers, or conflicting interpretations of statutes and precedents. The role of the Tribunal is to discern the positions of the parties and to establish fair and appropriate rules to resolve the dispute.

The Tribunal may inquire only into complaints under the CHRA that are referred to it by the Canadian Human Rights Commission, usually after a full investigation by the Commission. The Commission resolves most cases without the Tribunal's intervention. Cases referred to the Tribunal generally involve complicated legal issues, new human rights issues, unexplored areas of discrimination or multi-faceted evidentiary complaints that must be heard under oath, especially in cases with conflicting evidence that involve issues of credibility.

The Tribunal is not an advocate for the CHRA; that is the role of the Commission. The Tribunal has a statutory mandate to apply the Act based solely on the evidence presented and on current case law. If there is no evidence to support an allegation, then the Tribunal must dismiss the complaint.

The Tribunal reports to Parliament through the Minister of Justice.

Organizational Structure

The Canadian Human Rights Tribunal is a small, permanent, quasi-judicial organization comprising a full-time Chairperson and Vice-Chairperson, and up to 13 full- or part-time members. The Chairperson is the chief executive officer of the Tribunal and is supported by the Executive Director and Registrar who is responsible for registry operations and internal services.

Members — To be eligible for appointment by the Governor in Council, Tribunal members must have experience, expertise, interest in and sensitivity to human rights. Under the CHRA, both the Chairperson and the Vice-Chairperson must have been a member of the bar for more than 10 years. Terms of office are up to five years for the 13 full- or part-time members and up to seven years for the Chairperson and Vice-Chairperson.

Registry Operations — Registry operations plan and arrange hearings, act as liaison between the parties and Tribunal members, and provide administrative support to members.

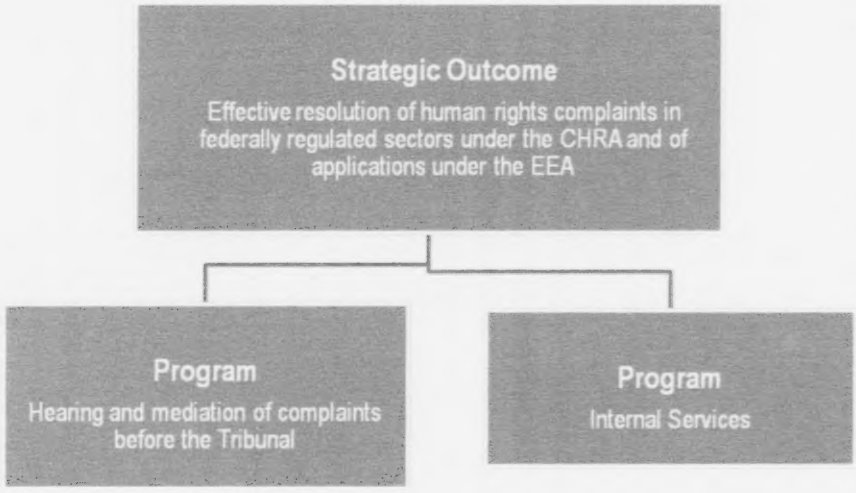
Internal Services — Internal services are activities and resources that support the needs of the Tribunal's operating program and other corporate obligations. They include corporate, legal, financial, human resources, and information management and technology services.

Strategic Outcome and Program Alignment Architecture (PAA)

In pursuing its mandate, the CHRT is guided by its strategic outcome (SO):

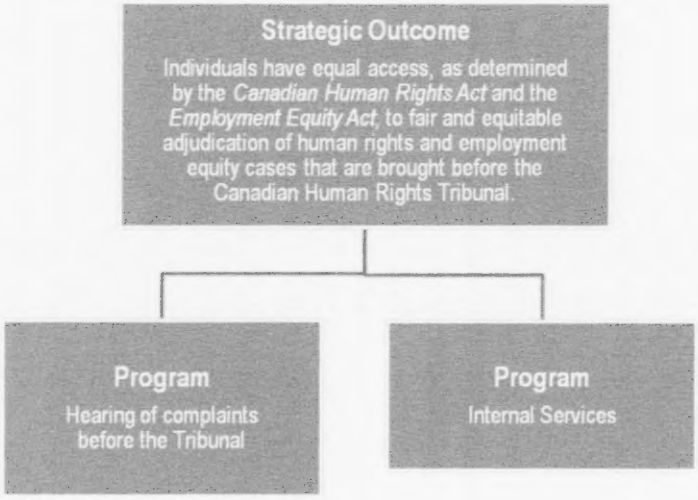
> Effective resolution of human rights complaints in federally regulated sectors under the *Canadian Human Rights Act* (CHRA) and of applications under the *Employment Equity Act* (EEA)

The SO is the long-term benefit for Canadians that the CHRT aims to achieve. Associated with the SO is one operational Program, and Internal Services, which supports the Program. This is shown graphically in the CHRT's Program Alignment Architecture (PAA) below.


Strategic Outcome
Effective resolution of human rights complaints in federally regulated sectors under the CHRA and of applications under the EEA
Program
Hearing and mediation of complaints before the Tribunal
Program
Internal Services

Strategic Outcome and Program Alignment Architecture Crosswalk

It should be noted that the CHRT recently made some minor modifications to the wording of both its strategic outcome and main program. The modifications are only meant to better describe the CHRT's strategic outcome and its sole operating program and do not reflect any underlying changes to them. They were made in accordance with TBS recommendations intended to refine the strategic outcome in order to ensure clarity and ensure its PAA reflects the department's main program. The previous PAA is provided below for comparison.


Strategic Outcome
Individuals have equal access, as determined by the Canadian Human Rights Act and the Employment Equity Act, to fair and equitable adjudication of human rights and employment equity cases that are brought before the Canadian Human Rights Tribunal.
Program
Hearing of complaints before the Tribunal
Program
Internal Services

Organizational Priorities

Priority	Type[1]	Strategic Outcome and Program
Encourage and support parties in mediation activities	Ongoing	This priority is linked to our sole strategic outcome: *Effective resolution of human rights complaints in federally regulated sectors under the CHRA and of applications under the EEA* and is directly linked to our main program: *Hearing and mediation of complaints before the Tribunal*

Description

Why is this a priority?

Objective and professional members conduct mediation activities to reach resolution in less time and cost, which promotes fairness and equitable treatment of parties.

Plans for meeting the priority

Continued implementation of the expedited complaints resolution process with a focus on mediation activities.

[1] Type is defined as follows: **previously committed to** – committed to in the first or second fiscal year prior to the subject year of the report; **ongoing** – committed to at least three fiscal years prior to the subject year of the report, and **new** – newly committed to in the reporting year of the RPP or DPR.

Priority	Type	Strategic Outcome and Program
Conduct hearings efficiently and issue decisions on a timely basis	Ongoing	This priority is linked to our sole strategic outcome: *Effective resolution of human rights complaints in federally regulated sectors under the CHRA and of applications under the EEA* and is directly linked to our main program : *Hearing and mediation of complaints before the Tribunal*

Description

Why is this a priority?

A transparent and efficient adjudication process ensures a structured and objective approach that is consistent with the principles of justice. Parties to the hearing require decisions on a timely basis to bring closure to the matter.

Plans for meeting the priority

Continued implementation of the expedited complaints resolution process, including using pre-hearing conferences to narrow issues and improve common understandings.

To contribute to efficiency, the Tribunal publishes its rules and procedures online.

Priority	Type	Strategic Outcome and Program
Streamline Internal Services	Ongoing	Internal Services supports all the activities related to our strategic outcome and main program activity.

Description

Why is this a priority?

The ability to embrace and explore cost-effective solutions for providing back-office services is essential to the Tribunal's ability to achieve its strategic outcome economically, efficiently and effectively.

Plans for meeting the priority

The Tribunal will explore horizontal opportunities and collaborative partnerships to achieve greater efficiencies that will meet the needs of the CHRT.

Risk Analysis

The Tribunal is a low-risk agency. Financially, approximately 60% of its $4.5 million operating budget is for salaries and benefits. Of the remaining $1.8 million in Operations and Maintenance (O&M), 40% is directly related to the adjudicative process such as per diem costs for part-time members, travel, facility rentals for hearings and mediation activities and translations of decisions and rulings. The Tribunal adheres to Treasury Board policies for the expenditure of its O&M budget.

Operating Environment — The Tribunal has an ongoing planning challenge in that the Tribunal's sole function is to respond to the matters referred to it by the Canadian Human Rights Commission. As such, the Tribunal's operational activities are driven by external demands that it can only react to rather than anticipate. A significant increase in the number of complex matters would severely affect the Tribunal's ability to meet its strategic outcome.

Unpredictable Workload — The repeal of Section 67 of the CHRA, which came into force in June 2011, extended human rights protection to individuals who were formerly unable to avail themselves of these protections. Decisions made or actions taken by band councils and the federal government under the *Indian Act* were, until recently, exempt from the application of the CHRA. Complaints that used to be filed with the Minister of Aboriginal Affairs and Northern Development pursuant to the *Indian Act* will now come before the Canadian Human Rights Commission. The Tribunal therefore anticipates an increase in such cases. Moreover, some of the cases referred to the Tribunal are expected to be complex as they will be exploring new areas of human rights law, requiring additional time and resources for research, mediation, hearings and decisions.

Adequate Resources to Conduct Timely Mediations/Hearings — Another key risk the Tribunal faces is associated with the number of complaints it receives in a given year, combined with its ability to maintain a resolution rate that prevents an accumulation of the backlog of cases. As the Tribunal accumulated a backlog of cases in the last couple of years, it will continue to strive to manage its caseload and conduct mediations and hearings within a targeted responsive timeframe. However, the Tribunal does not have enough resources to avoid incurring a backlog of complaints, especially if the intake increases as a result of legislative changes and the complaints received continue to be as complex as the early indications have demonstrated. To mitigate this, the Tribunal has begun to seek additional resources to deal with the caseload that results from the Repeal of Section 67 of the CHRA. In addition, over the next year the Tribunal will complete a review of its procedures with the aim of making them more accessible and expeditious as possible and will continue to refine and implement the expedited complaints resolution process with a focus on mediation.

Corporate Management — Like small departments and other micro-agencies, the Tribunal continually faces pressure to respond to or implement various government-wide management initiatives. The Tribunal also has to manage its operating and salary budget in line with government-wide budget restraints, which are likely to remain in place for some time. The Tribunal will continue to actively seek horizontal opportunities and interdepartmental partnerships to achieve efficiencies while ensuring fiscally sound and sustainable solutions. The Tribunal will also continue its work on several fronts, such as focusing on maintaining the necessary systems, management practices and governance rigor in implementing new initiatives. The Tribunal believes this approach will mitigate the pressures caused by increased demands and reduced available funding, while ensuring it continues to be well-positioned to carry out its statutory mandate.

Planning Summary

Financial Resources (Planned Spending — $ millions)

Total Budgetary Expenditures (Main Estimates) 2013-14	Planned Spending 2013–14	Planned Spending 2014–15	Planned Spending 2015–16
4.5	4.5	4.5	4.5

Human Resources (Full-Time Equivalents—FTE)

2013–14	2014–15	2015–16
26	26	26

Planning Summary Table for Hearing and Mediation of Complaints ($ millions)

Strategic Outcome	Program	Actual Spending 2010–11	Actual Spending 2011–12	Forecast Spending 2012–13	Planned Spending			Alignment to Government of Canada Outcomes[2]
					2013–14	2014–15	2015–16	
Effective resolution of human rights complaints in federally regulated sectors under the CHRA and of applications under the EEA	Hearing and mediation of complaints before the Tribunal	1.8	1.8	2.2	2.3	2.3	2.3	Social Affairs: A diverse society that promotes linguistic duality and social inclusion
Sub-Total		1.8	1.8	2.2	2.3	2.3	2.3	

Planning Summary Table for Internal Services ($ millions)

Program	Actual Spending 2010–11	Actual Spending 2011–12	Forecast Spending 2012–13	Planned Spending		
				2013–14	2014–15	2015–16
Internal Services	2.6	3.2	2.7	2.2	2.2	2.2
Sub-Total	2.6	3.2	2.7	2.2	2.2	2.2

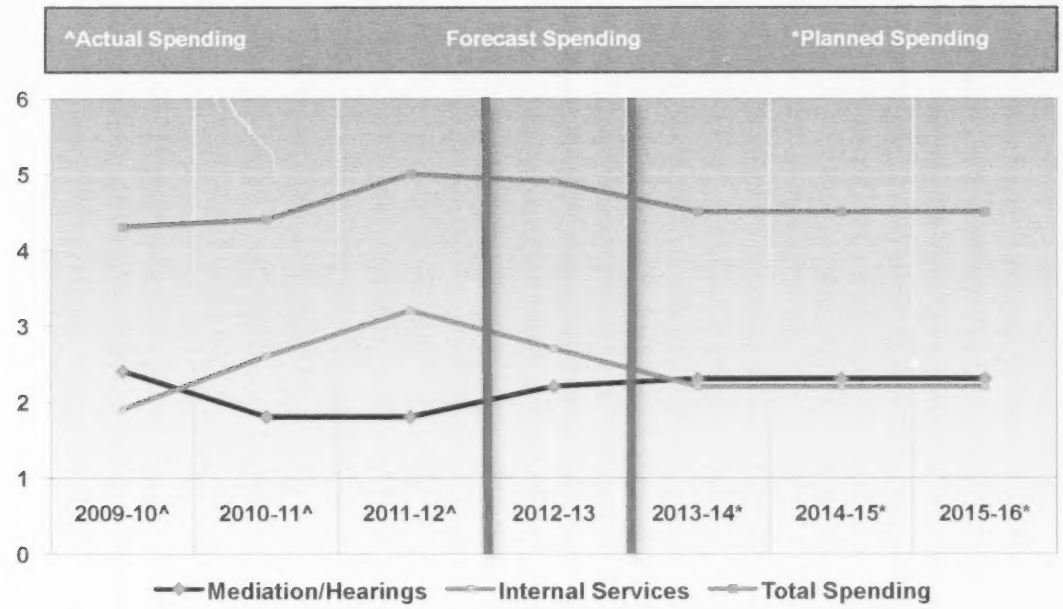
Planning Summary Total ($ millions)

Strategic Outcome(s) Program(s), and Internal Services	Actual Spending 2010–11	Actual Spending 2011–12	Forecast Spending 2012–13	Planned Spending		
				2013–14	2014–15	2015–16
Total	4.4	5.0	4.9	4.5	4.5	4.5

[2] Information on departmental alignment to Government of Canada outcomes is available on the Secretariat's website.

Expenditure Profile

Departmental Spending ($ millions)



The departmental spending trend graph shows the Tribunal's actual and planned spending for seven years, from the actual expenditures in 2009–2010 to the planned spending for fiscal year 2015–2016. The graph displays the trend lines for the Tribunal's two programs, as well as the Tribunal's total expenditure and planned spending.

In 2011–2012, the Tribunal's actual expenditures were slightly higher than in 2010–2011 due to several extraordinary issues/events. These include the rehabilitation of its IT network and equipment following a deliberate and unauthorized attack on the Tribunal network; extraordinary litigation costs related to the settlement of a long-standing legal dispute; and professional services costs needed to address unprecedented labour relations issues. The forecast spending for 2012–2013 includes regular pay increases and other benefits adjustments prescribed by collective agreements and Treasury Board policies.

Estimates by Vote

For information on our organizational appropriations, please see the 2013–14 Main Estimates publication.

Section II: Analysis of Program by Strategic Outcome

Strategic Outcome

Strategic Outcome: Effective resolution of human rights complaints in federally regulated sectors under the CHRA and of applications under the EEA

Performance Indicators	Target
Number of complaints resolved as a percent of complaints received	70%

Program: Hearing and mediation of complaints before the Tribunal

Program Description

As a key mechanism of human rights protection in Canada, the Tribunal gives effect to the Canadian ideals of pluralism, equity, diversity and social inclusion. It provides a forum where human rights complaints can be scrutinized and resolved and provides definitive interpretations on important issues of discrimination. The primary result of the Tribunal's program is that complainants can air their grievances and achieve closure in a respectful, impartial forum. Parties to a proceeding have access to a case-resolution process that is efficient, fair and equitable and that delivers meaningful results. In the long term, Tribunal decisions create meaningful legal precedents for use by employers, service providers and Canadians at large.

Financial Resources ($ million)

Total Budgetary Expenditures (Main Estimates) 2013-14	Planned Spending 2013–14	Planned Spending 2014–15	Planned Spending 2015–16
2.3	2.3	2.3	2.3

Human Resources (Full-Time Equivalent—FTE)

2013–14	2014–15	2015–16
13	13	13

Program Expected Results	Performance Indicators	Targets
a) Parties to a proceeding have access to a case-resolution process that is efficient, fair and equitable and that delivers meaningful results for Canadians. b) Reasoned and objective application of the CHRA and the EEA. c) Decisions that respond to complaints and provide guidance to employers and service providers within the federal sphere.	(i) Percent of case processes initiated within ten (10) days of referral of the complaint file	(i) 80%
	(ii) Percent of cases resolved within eighteen (18) months of the referral of a complaint file	(ii) 80%
	(iii) Percent of decisions rendered within four (4) months of the close of the hearing	(iii) 80%
	(iv) Percent of rulings rendered within four (4) months of the close of the submissions	(iv) 80%
	(v) Percent of cases that commenced a hearing within twelve (12) months of receiving the complaint file	(v) 70%
	(vi) Percent of cases involving mediation successfully resolved without a hearing	(vi) percentage achieved[3]

Program: Internal Services

Program Description

Internal Services are groups of related activities and resources that are administered to support the needs of programs and other corporate obligations of an organization. These groups are: Management and Oversight Services; Communications Services; Legal Services; Human Resources Management Services; Financial Management Services; Information Management Services; Information Technology Services; Real Property Services; Materiel Services; Acquisition Services; and Travel and Other Administrative Services. Internal Services include only those activities and resources that apply across the organization and not to those provided specifically to a program.

[3] No targets set as mediation is voluntary and requires the consent of both parties. The Tribunal makes best efforts to encourage parties to mediate rather than proceeding to a hearing.

Financial Resources ($ millions)

Total Budgetary Expenditures (Main Estimates) 2013-14	Planned Spending 2013–14	Planned Spending 2014–15	Planned Spending 2015–16
2.3	2.3	2.3	2.3

Human Resources (FTEs)

2013–14	2014–15	2015–16
13	13	13

Planning Highlights

This program contributes to the achievement of the Tribunal's strategic outcome by providing effective resolution of human rights complaints using a variety of processes. The Tribunal will continue to conduct mediations and hearings, issuing rulings and decisions. The Tribunal will continue to provide access to justice for ordinary Canadians through an expedited complaint resolution process. This expedited process involves intensive pre-hearing case management to narrow the issues of litigation and to abbreviate the hearings by focusing on facts in dispute. It also involves the use of *evaluative mediation*[4] as opposed to *interest-based mediation*[5] to resolve complaints. Whatever the chosen or feasible resolution option, the goal of the Tribunal is to make sure the process is fair, clear, fast and meaningful.

The Tribunal will continue to actively monitor its caseload of mediations and hearings to assess resource levels going forward. The purpose of this activity is also to collect and analyze performance indicator data, assess performance against stated targets and report this information in its annual Performance Report to Parliament. In addition, information and findings from the assessment will be used to make informed adjustments to registry operations.

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[4] Evaluative mediation is a process facilitated by a mediator to assess the relative strengths and weaknesses of each party's position and to determine likely results if the issue(s) between the parties were decided by a hearing.

[5] Interest-based mediation is a process facilitated by a mediator to establish each party's interests in the issues and develop a resolution that addresses, to the greatest degree possible, those interests so that the parties can commit to the resolution.

In addition, the Tribunal will work closely with all stakeholders to improve its practices and over the next year will review its rules of procedures to simplify the procedures and make the processes more accessible for all Canadians.

The Tribunal is committed to continuously seeking effective and efficient internal service delivery solutions in line with the broader government agenda. In addition, in pursuit of the effective allocation of its limited resources in a cost effective way, the Tribunal will once again plan to use an integrated, zero-based budget planning process, which involves assessing current and future resource capacity against evolving business priorities, identifying gaps and developing and implementing strategies to fill those gaps. The Tribunal will also continue to strengthen its management practices by building on this integrated planning process and aligning its human resources plan with financial, asset and information resources required to deliver on its statutory mandate.

In support of the Greening Government Operations initiative, all staff and members will be encouraged to work electronically to reduce the demand for printed documents, in particular draft versions of reports, hearings, mediations and other information that is used internally prior to producing print-quality documents and reports.

Section III: Supplementary Information

Financial Highlights

Future-Oriented Condensed Statement of Operations and Departmental Net Financial Position For the Year (ended March 31) **($ millions)**

	$ Change	Forecast 2013-14	Estimated Results 2012-13
Total expenses	+1.0	5.9	5.8
Total revenues	0	0	0
Net cost of operations before government funding and transfers	+1.0	**5.9**	**5.8**
Departmental net financial position	0	**0.3**	**0.3**

Future-Oriented Condensed Statement of Financial Position
For the Year (ended March 31) **($ millions)**

	$ Change	Forecast 2013-14	Estimated Results 2012-13
Total net liabilities	0	0.7	0.7
Total net financial assets	0	0.4	0.4
Departmental net debt	0	0.3	0.3
Total non-financial assets	0	0	0
Departmental net financial position	0.3	**0.3**	**0.3**

Future-Oriented Financial Statements

Further information concerning the Tribunal's financial statements can be found on the Tribunal's website.

Tax Expenditures and Evaluations Report

The tax system can be used to achieve public policy objectives through the application of special measures such as low tax rates, exemptions, deductions, deferrals and credits. The Department of Finance publishes cost estimates and projections for these measures annually in the Tax Expenditures and Evaluations publication. The tax measures presented in the Tax Expenditures and Evaluations publication are the sole responsibility of the Minister of Finance.

Section IV: Other Items of Interest

Organizational Contact Information

Executive Director and Registrar
Canadian Human Rights Tribunal
160 Elgin Street, 11th Floor
Ottawa, Ontario, K1A 1J4
Tel.: 613-995-1707
TTY: 613-947-1070
Fax: 613-995-3484
E-mail: registrar-greffier@chrt-tcdp.gc.ca
Website: chrt-tcdp.gc.ca

Legislation

The Minister of Justice is responsible to Parliament for the *Canadian Human Rights Act* (R.S. 1985, c. H-6, as amended).

The Minister of Labour is responsible to Parliament for the *Employment Equity Act* (S.C. 1995, c. 44, as amended).

Reports

The following documents can be found on the Tribunal's website:

Annual Reports

Performance Reports

Reports on Plans and Priorities